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Letter dated 10 June 2013 from the Permanent Representative of Guyana to the United Nations addressed to the Chair of the Committee

I have the honour to forward herewith the response of the Government of Guyana to the request for information on the implementation of Security Council resolution 1624 (2005), concerning counter-terrorism (see annex). The response was previously submitted by e-mail on 23 September 2011.

(*Signed*) George **Talbot**
Ambassador
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Annex to the letter dated 10 June 2013 from the Permanent Representative of Guyana to the United Nations addressed to the Chair of the Committee

Response of the Government of Guyana to the request of the United Nations for information on the implementation of Security Council resolution 1624 (2005), concerning counter-terrorism

31 August 2011

Paragraph 1

1.1 What measures does your country have in place to prohibit by law and to prevent incitement to commit a terrorist act or acts? What further steps, if any, are under consideration?

Freedom of expression is guaranteed by the Guyanese Constitution pursuant to the mandate in Article 146 (1) that "Except with his own consent, no person shall be hindered in the enjoyment of his freedom of expression, that is to say, freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference and freedom from interference with his correspondence." However, subsection (2) of Article 146 provides several exceptions which would serve to prohibit by law and prevent incitement to commit a terrorist act. First, subsection (a) of (2) directs that a person may be prevented in the enjoyment of his freedom of expression by law if it is "reasonably required in the interests of defence, public safety, public order, public morality or public health". Secondly, subsection (b) of (2) directs that a person may be prevented in the enjoyment of his freedom of expression by law if it is "reasonably required for the purpose of protecting the ... rights and freedoms of other persons". Thirdly, subsection (d) of (2) directs that a person may be prevented in the enjoyment of his freedom of expression by law if it "may result in racial or ethnic division among the people of Guyana". Finally, subsection (3) of Article 146 directs that "freedom of expression ... does not relate to hate speeches or other expressions, in whatever form, capable of exciting hostility or ill-will against any person or class of persons". These subsections clearly envision legally prohibiting speech which serves the purpose of incitement to commit a terrorist act. As such, these four exceptions to one's freedom of expression are respectable efforts on the part of the Government of Guyana to reasonably anticipate and foresee the legitimate and compelling need to prohibit by law and to prevent incitement to commit a terrorist act, by tempering this fundamental freedom.

Freedom of assembly, association and demonstration is guaranteed by the Guyanese Constitution pursuant to the mandate in Article 147 (1). However, subsection (4) of Article 147 provides two exceptions which would serve to prohibit by law and prevent incitement to commit a terrorist act. First, subsection (a) of (4) directs that a person may be prevented in the enjoyment of his freedom of assembly, association and demonstration if it is "reasonably required in the interests of defence, public safety, public order, public morality or public health". Also, subsection (b) of (4) directs that a person may be

prevented in the enjoyment of his freedom of assembly, association and demonstration if it is "reasonably required for the purpose of protecting the rights or freedoms of other persons". These subsections clearly envision legally prohibiting assembly, association and demonstration which serve the purpose of incitement to commit a terrorist act. As such, these two exceptions to one's freedom of assembly, association and demonstration are respectable efforts on the part of the Government of Guyana to reasonably anticipate and foresee the legitimate and compelling need to prohibit by law and to prevent incitement to commit a terrorist act, by tempering this fundamental freedom.

Freedom of conscience is guaranteed by the Guyanese Constitution pursuant to the mandate of Article 145 (1). However, subsection (5) of Article 145 provides exceptions which would serve to prohibit by law and prevent incitement to commit a terrorist act. First, subsection (a) (i) of (5) directs that a person may be prevented in the enjoyment of his freedom of conscience if it is "in the interests of defence, public safety, public order, public morality or public health". Next, subsection (a) (ii) of (5) directs that a person may be prevented in the enjoyment of his freedom of conscience if it is "for the purpose of protecting the rights and freedoms of other persons". These subsections clearly envision legally prohibiting the propagation of thought which serves the purpose of incitement to commit a terrorist act. As such, these two exceptions to one's freedom of conscience are respectable efforts on the part of the Government of Guyana to reasonably anticipate and foresee the legitimate and compelling need to prohibit by law and to prevent incitement to commit a terrorist act, by tempering this fundamental freedom.

Since the 1976 Cubana Airlines bombing in Barbados, in which 11 Guyanese were killed among other nationalities, Guyana has remained resolute in its denunciation of terrorism.

The Government of Guyana is committed to discouraging operations of subnational groups on home soil, scaling up intelligence-gathering and enhancing security through Joint Services operations and the removal of social exclusion and vulnerabilities that lend to the recruitment of transnational terrorist cells.

Furthermore, the Firearms (Amendment) Act 2007 and regulations, the Interception of Communication Act 2008, the Hijacking and Piracy Act 2008, the Anti-Money Laundering and Countering the Financing of Terrorism Act 2009, subsidiary amendment of 2010 and regulations, the Money Transfer Agencies (Licensing) Act 2009, the Mutual Assistance in Criminal Matters Act 2009 and the Fugitive Offenders (Amendment) Act 2009 lay the legislative framework for intelligence-gathering and tracking the movement of funds, etc., by those who may have such inclinations and objectives.

1.2 What measures does your country take to deny safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of incitement to commit a terrorist act or acts?

Freedom of movement is guaranteed by the Guyanese Constitution pursuant to the mandate in Article 148 (1) that "No person shall be deprived of his freedom of movement, that is to say, the right to move freely throughout

Guyana, the right to reside in any part of Guyana, the right to enter Guyana, the right to leave Guyana and immunity from expulsion from Guyana." However, subsection (3) of Article 148 provides several exceptions which would serve to deny safe haven to persons with respect to whom there is credible and relevant information giving serious reasons for considering they have been guilty of incitement to commit a terrorist act.

First, subsection (a) of (3) directs that a person may be prevented in the enjoyment of his freedom of movement if it is "reasonably required in the interests of defence, public safety or public order or for the purpose of preventing the subversion of democratic institutions in Guyana". Secondly, subsection (e) of (3) directs that a person may be prevented in the enjoyment of his freedom of movement if it is "for the imposition of restrictions on the freedom of movement of persons who are not citizens of Guyana". Thirdly, subsection (g) directs that a person may be prevented in the enjoyment of his freedom of movement if that person is "(i) to be tried or punished in some other country for a criminal offence under the law of that country". These subsections clearly envision prohibiting movement by denying safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of incitement to commit a terrorist act. As such, these exceptions to one's freedom of movement are respectable efforts on the part of the Government of Guyana to reasonably anticipate and foresee legitimate and compelling needs to deny safe haven, by tempering this fundamental freedom.

Guyana's immigration laws and laws mentioned in 1.1 above also allow for the country to deny safe haven to such persons as described in 1.2 above on a case-by-case basis.

Paragraph 2

2.1 How does your country cooperate with other States in strengthening the security of its international borders with a view to preventing those guilty of incitement to commit a terrorist act or acts from entering their territory, including by combating fraudulent travel documents and, to the extent attainable, by enhancing terrorist screening and passenger security procedures?

The Government of Guyana has taken positive steps to comprehensively address and improve the security of its international borders with a view to preventing those guilty of incitement to commit a terrorist act from entering its territory, by significantly investing in the security sector.

Legislative reform established between 2007 and 2009 has contributed to a modernized framework for the security sector to allow it to address the new challenges it faces, such as fraudulent travel documents, difficulties in terrorist screening and abnormalities in passenger security procedures.

Guyana's focus is on modernizing the Guyana Police Force, improving police/community relations, creating safer neighbourhoods and consideration of cooperation with other States. The Guyana Defence Force has been given additional resources and training to better meet the challenges of transborder and national security.

This sincere, good-faith effort has attracted donor support from the Inter-American Development Bank in terms of two programmes funded by the Government of Guyana and the Bank, on citizen security (2005-2011) and justice sector reform (2005-2011).

In 2005, to facilitate broad-based participation and oversight on crime and security matters, and in response to commitments by Heads of Government of the Caribbean Community (CARICOM), the Government of Guyana established the National Commission on Law and Order, a 28-member broad-based body composed of representatives of the labour movement, the business community, the religious community and parliamentary political parties which produces reports, meets with communities and makes recommendations to the Government on preventing and combating all forms of criminal activity.

Guyana works with and receives technical support from the United Nations Office on Drugs and Crime and coordinates with INTERPOL and foreign drug enforcement agencies.

Guyana also has bilateral cooperation agreements with neighbouring States which allow for better coordination and sharing of information on combating organized transnational crime and terrorism.

Finally, Guyana has also signed a number of cooperation treaties on mutual assistance in criminal matters with CARICOM and the Organization of American States, and has enacted the Mutual Assistance in Criminal Matters Act of 2009.

Paragraph 3

3.1 What international efforts is your country participating in or considering participating in/initiating in order to enhance dialogue and broaden understanding among civilizations, in an effort to prevent the indiscriminate targeting of different religions and cultures?

Guyana is a member of the United Nations Alliance of Civilizations, for which it was named a focal point in 2011, and a member of the United Nations Educational, Scientific and Cultural Organization, having also signed a number of the conventions of the organization. It has ratified the international human rights treaties — the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment — and in 2010 it ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. It has signed the Convention on the Rights of Persons with Disabilities.

It is hoped that Guyana's participation in the United Nations Alliance of Civilizations can contribute towards building bridges between societies, cultures, religions and languages to promote dialogue, to broaden understanding among civilizations and to forge the collective will to address the world's imbalances such as the indiscriminate targeting of different religions and cultures.

Guyana, as a multicultural, multi-ethnic and multireligious nation, remains committed to addressing widening rifts between societies by reaffirming a paradigm of mutual respect among peoples of different cultural and religious traditions and by helping to mobilize concerted action in that regard. To this end, Guyana, in its domestic capacity, shares in the guiding principles of the United Nations Alliance of Civilizations insofar as they relate to: (a) fundamental documents on cultural religious rights as the basic reference point for promoting a culture of dialogue and respect among all nations and cultures; (b) adherence to international law and covenants, including all rights and responsibilities governing international humanitarian law; (c) universal and unconditional adherence to human rights standards; (d) recognizing that diversity of civilizations is a driving force of human progress; (e) aggressively pursuing the eradication of poverty; and (f) complete denunciation of terrorism.

Guyana has also fulfilled its national and international humanitarian obligations. Guyana is a participating State in the Caribbean Disaster Emergency Management Agency and has contributed to humanitarian and peacekeeping missions in the Caribbean region and farther afield.

Please also refer to Guyana's response to question 2.1 above, specifically: (a) National Commission on Law and Order; (b) mutual assistance in criminal matters with the Caribbean Community and the Organization of American States.

3.2 What steps is your country taking to counter incitement of terrorist acts motivated by extremism and intolerance and to prevent subversion of educational, cultural and religious institutions by terrorists and their supporters?

Guyana is committed to discouraging and countering incitement of terrorist acts motivated by extremism and intolerance and to prevent subversion of educational and religious institutions by terrorists.

To this end, Guyana has scaled up intelligence-gathering and has enhanced security through Joint Services operations and has removed social exclusion and vulnerabilities that lend to the recruitment of national and transnational terrorist cells.

Moreover, the 2003 constitutional reform process made significant progress towards addressing ethnic and racial insecurities, which can form the basis for incitement of terrorist acts. In accordance with Article 160A (1) of the Guyanese Constitution, all persons, institutions and political parties are prohibited from taking any action or advancing, disseminating or communicating any idea which may result in racial or ethnic division among people. Under the Racial Hostility Act 1973 (amended by Act 9 of 2002), incitement to racial hatred is a criminal offence. A person shall be guilty of an offence if he or she wilfully excites or attempts to excite hostility or ill will against any section of the public or against any person on the ground of his or her race. This is a good-faith effort on the part of the Government of Guyana to counter incitement of terrorism motivated by extremism and intolerance and to prevent subversion of cultural harmony by terrorists, or those with the propensity for such terrorism.

Guyana has established, through the 2003 constitutional reform process and an agreed-upon parliamentary consensual mechanism, four rights commissions: the Ethnic Relations Commission, the Indigenous People's Commission, the Women and Gender Equality Commission and the Rights of the Child Commission.

Paragraph 4

4.1 What is your country doing to ensure that any measures taken to implement paragraphs 1, 2 and 3 of resolution 1624 (2005) comply with all of its obligations under international law, in particular international human rights law, refugee law and humanitarian law?

The Governance Unit of the Office of the President, established after the 2006 national elections, has as one of its responsibilities monitoring Guyana's implementation of its treaty obligations under international law, in particular international human rights law, refugee law and humanitarian law. It also assists in the compilation of its State party reports. The Governance Unit may then make recommendations to the Cabinet or sectoral ministries and agencies. Where the Unit is of the view that there may be inconsistencies, it will bring these to the attention of the relevant bodies of the State for their guidance, where necessary action will be taken once the Cabinet decides.

Pursuant to Article 212N of the Guyanese Constitution, the Human Rights Commission is mandated to make recommendations for policy and legislative changes, reporting directly to the Parliament, thereby serving as an entity that specializes in evaluating risk and implementing preventive protection schemes for human rights, taking into account the human rights systems and international obligation treaties of which Guyana is a member. It thus specializes in evaluating risk and implementing schemes to comply with Guyana's obligations under international law, in particular international human rights law, refugee law and humanitarian law. It also liaises with governmental and non-governmental organizations and other relevant bodies to address the complaints and concerns of persons regarding matters under its purview. Judicial review by the courts also maintains adherence to the Constitution and Guyana's international treaty obligations.